

DOCKET SECTION

PRESIDING OFFICER'S
RULING NO. R97-1/65

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268

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UNITED STATES POSTAL SERVICE
OFFICE OF THE SECRETARY

Postal Rate and Fee Changes

Docket No. R97-1

PRESIDING OFFICER'S RULING ON POPKIN'S MOTION TO DISMISS

(November 19, 1997)

On November 10, 1997, David Popkin, an intervenor, filed a Motion to Dismiss, (Motion) in this docket asking that Postal Service's request for a fee for bulk sales of plain hologram stamped envelopes be dismissed. In response, the Postal Service filed its "Opposition of the United States Postal to David B. Popkin's Motion to Dismiss" (Opposition) on November 12, 1997.

BACKGROUND

Mr. Popkin is asking the Commission to strike Postal Service witness Needham's Supplemental Response to one of Mr. Popkin's interrogatories (DBP/USPS-66(a)) and reject the Postal Service's proposal for a fee increase in bulk sales of plain hologram stamped envelopes. The table of fees for stamped envelopes in witness Needham's original testimony (Table 16) does not include a fee for bulk sales of plain hologram stamped envelopes. On October 15, witness Needham filed a supplementary response to Mr. Popkin's interrogatory that updated Table 16 and included a fee of \$15.50. The Postal Service admits the fee was omitted from Table 16 of witness Needham's

testimony and the Proposed Fee Schedule 961 of the Postal Service's Request for a Recommended Decision. Opposition at 3, n.1.

DISCUSSION

Mr. Popkin is asking the Commission to prevent the Postal Service from amending its request for a fee because he believes that the Postal Service did not request an increase in the fee for bulk sales of plain hologram stamped envelopes in its original request. Motion at 1. According to Mr. Popkin, the Postal Service is now "attempting to make a change in their desired rates" long after the time of the Request for a Recommended Decision. *Id.* at 2. He contends the Postal Service is seeking a fee "not provided for in the original Testimony," and citing Rule 53 of the Commission's Rules of Practice and Procedure, he argues the Commission should reject the request for this fee. *Id.* at 1-2.

The Postal Service responds that this fee was part of the original Request filed by the Postal Service. The Postal Service points to witness Needham's original testimony which states: "For both the 10 inch printed and plain bulk units, \$4.00 higher fees were developed for holograms over the respective proposed bulk unit fees." USPS T-39 at 96, lines 7-9. The fee is used in witness Needham's workpaper to calculate after rates revenues for stamped envelopes and the revenues are then used by witnesses O'Hara and Patelunas. Opposition at 3. The Postal Service also notes that Library Reference H-107 provided a separate cost for plain bulk hologram stamped envelopes.

I recognize that the fee proposal for stamped envelopes is confusing and the Postal Service acknowledges this as well. See Supplemental Response of Witness Needham to DBP/USPS-66(a) at 3. Even the Postal Service has difficulty describing it. See Opposition at 2 (incorrectly indicating proposed bulk hologram fee of \$11.50). But there is little basis for Mr. Popkin's contention that the Postal Service is now seeking to change its initial Request. All Postal Service testimony is consistent with witness Needham's original testimony that the Service proposes a \$4.00 premium for bulk sales

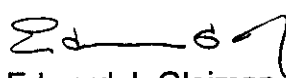
of hologram stamped envelopes, and Mr. Popkin acknowledges the fee is in Workpaper WP-15. Motion at 2.

Indeed, a primary purpose of the restructuring of the stamped envelope fee schedule is to place the more costly hologram envelopes into their own fee category. "A major distinction between the current stamped envelope fee structure and the proposed stamped envelope fee structure is the separate grouping of hologram stamped envelopes. By isolating the costs for the holograms from the other fee categories, higher fees were developed for the holograms." USPS T-39 at 96. The Postal Service obviously intended to propose this fee; it just failed to take sufficient care in the preparation of the tables accompanying its Request for a Recommended Decision.

The errors in Table 16 and Fee Schedule 961, while an annoyance, are not so severe that they prejudice the rights of participants in R97-1. Hence, I will permit the Postal Service to correct the omissions from Table 16 and Fee Schedule 961 and amend its Request for a Recommended Decision. For the foregoing reasons, the Motion to Dismiss is denied.

RULING

Mr. Popkin's Motion to Dismiss is denied.


Edward J. Gleiman
Presiding Officer